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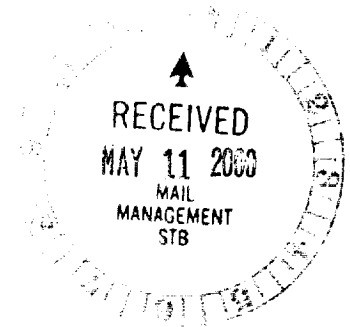
May 10, 2000
File: Ex Parte 582 (Sub 1)

Office of the Secretary
Case Control Unit
AttN: STB Ex Parte No. 582 (Sub-No. 1)
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

ENTERED
Office of the Secretary

MAY 11 2000

Part of
Public Record



Re: Major Rail Consolidation Procedures,
Ex Parte No. 582 (Sub-No. 1)

Dear Sir or Madam:

In accordance with the rules and procedures for filing comments to Ex Parte No. 582 (Sub-No. 1) attached hereto are our comments. This includes an original and 25 copies and a diskette in a convertible word format.

In addition, I certify that this 10th day of May, 2000, I have served a copy of the foregoing on all parties of record on the Service List in accordance with the Board's Rules of Practice.


Daniel T. Yoest

Sincerely,


Daniel T. Yoest

President

CrossRoad Carriers Intermodal Co.

"Your Intermodal Connection for Government and Third Party Logistic Companies"

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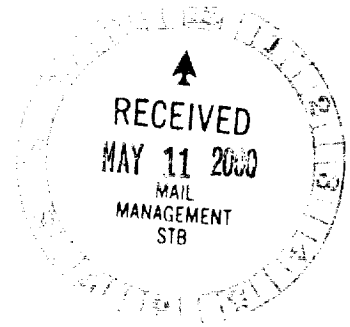
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SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 582 (Sub-No. 1)

MAJOR RAIL CONSOLIDATION PROCEDURES

SUBMITTED BY: DANIEL T. YOEST
PRESIDENT
CROSSROAD CARRIERS INTERMODAL
1835 EAST PARK PLACE BLVD STE 107
STONE MOUNTAIN, GEORGIA 30087



DATED: MAY 8, 2000

During the last decade the railroad industry has changed significantly as the Class I rail carriers have merged over the years from approximately 45 carriers to its present condition of 2 mega-carriers in the west and 2 mega-carriers in the east. Since this industry has become extremely concentrated, this high degree of concentration has inherently created rail carriers with much more market leverage than ever before. Policies and procedures are developed in the marketing groups of these carriers without regard to how it impacts the smaller to medium size shippers. Too often the mega-rail carrier's focus has only been on the larger shipper and these policies both disadvantage the smaller shipper and has the ability to literally put the smaller shipper out of business.

The downstream effects of these mergers have the result of systematically removing competition from the marketplace rather than enhancing it. Prior to 1996 (before the BN, ATSF, UP, SP, CR, NS, CSX mergers and acquisitions) there were numerous rail competitors in the marketplace. If one carrier was approached with a request for a rate or service action and that carrier didn't see the benefit, you always had several others that could be approached. Today, with so few competitors, small shippers are fighting for sheer survival as the mega-rail carriers pursue only what is in their best interests or that of the largest shipper interests. This is happening not only in the carload shipments of coal, grain and chemicals, but also in intermodal.

It is a common misunderstanding that intermodal traffic is so fiercely truck competitive and that there needs to be no safeguards in the market place when it comes to how railroads deal with the intermodal marketing companies. However, contrary to this notion, many intermodal companies solely rely on railroads as their primary means of transporting goods. The typical intermodal marketing company has the ability to pass sometimes as much as a 25%-35% savings below over-the-road truck on to their customers. This substantial savings result in the intermodal company becomes a captured shipper to the rail industry. It also keeps the intermodal tonnage off the interstate highway network and keeps undue burden off the transportation system when considering highway congestion, diesel fuel usage and the current driver shortage. Further, since the intermodal company and its customers must rely on the rail carriers to provide the trailers and containers, the lift devices, the intermodal yard facilities, the rail cars, the track and crews to move the trains it simply cannot just walk away and use truck as many would like to believe.

After, the near gridlock of the UP/SP in 1997, knowing that the BNSF had market leverage based on the few number of competitors existing in the west, it unilaterally raised the required volume contract levels for its intermodal contract holders. At the time BNSF had approximately 75 intermodal contract holders. In a 90-day period it raised the required volume revenue level from \$500,000.00 annually to \$5 Million dollars. In addition BNSF raised the bonding requirement from \$100,000.00 to \$250,000.00 and the shortfall penalty provision from \$100.00 per unit to 25% (approximately \$325 a unit) of the actual revenue shortfall amount.

These requirements are too exorbitant and can only be met by the larger shippers resulting in the larger shipper having an unfair advantage over the smaller shipper. Imagine a \$250,000.00 bond being provided to 4 mega-carriers by a smaller intermodal company. This would take \$1 Million dollars from the intermodal marketing companies operating capital. Imagine paying a \$325 per unit shortfall for loads not shipped when the intermodal company on average makes about \$75 profit per load. These type of requirements **"to play"** need to be designed as being fair to all parties whether large or small and providing the competitive environment needed.

The end result was for all 45 small to medium intermodal contract holders to lose their railroad contracts. This equated to exiling some 60% of their intermodal customers from directly dealing with BNSF. In a highly competitive marketplace a railroad could not have and would not have been able to take these steps without fear of significant loss of market share. Even had they made a poor management decision such as this, the small to medium intermodal companies would have had the option of finding another rail competitor to handle their intermodal business.

Now the Norfolk Southern (NS) has also announced their intention to increase their annual volume contract requirements from 250 units to 1,000 units by year-end of 2000. This is another example of a rail carrier exerting excessive market power. It is estimated that 60 present intermodal contract holders will lose their NS intermodal contracts.

The intermodal industry is a highly competitive industry and eliminating 60% of the competitive force in the industry with one internal policy change results in hurting the public interests. Without the full extent of the competitive forces in the intermodal marketplace several things happen.

- 1) Manufacturers of goods do not have all the intermodal choices they need to move their products.
- 2) Fewer choices mean reduced competition in both rates and services.
- 3) Reduced competition in the intermodal marketplace means higher consumer prices for transportation and transportation services.
- 4) Intermodal Marketing Companies is reduced to a limited few.
- 5) Ultimately the public interests are not served.

This same thing has happened in the rail carload arena as well. Small grain shippers have complained that the large volume grain and feed shippers are receiving preferred treatment in pricing, car supply and timely service. They become disadvantaged in the market place and are fighting for their survival against the larger advantaged shippers. It is apparent that this same unfair approach to pricing and services will continue as the rail industry continues to merge and consolidate. Class I rail carriers will begin rationalizing smaller shipper sidings and begin ceasing service to chemical, grain, wood products, etc., shippers as the shippers may not be large enough to stop and switch their traffic. Shortline operators will be advised by the mega-carrier that their generated volumes of traffic will not warrant continued access to their service networks. The larger the rail carrier becomes, the more depraved he becomes to the needs of the smaller shipper.

As the Surface Transportation Board develops new rules for approving future mergers the following small shipper safeguards need to be implemented to protect all shippers of rail traffic:

PROPOSED RULE MAKING REQUIREMENTS:

- 1) All present intermodal marketing companies are grandfathered users of the rail systems.
- 2) No Class I railroad can enact policies that result in stifling competition or eliminating competitors.
- 3) All required volume levels, bond requirements and shortfall provisions cannot exceed that which was in effect on January 1, 1996.
- 4) The STB should have the ability to review all actions by the Class I rails including intermodal for the expressed purpose of promoting competition and in no way inhibiting competition.
- 5) The STB have an injunctive relief procedure until harmful rail actions can be reviewed.
- 6) The STB shall develop an efficient, cost effective and timely review and appeal process.

The small to medium intermodal marketing company is the smaller shippers gateway to the intermodal rail system. As the railroads continue to gain critical mass through mergers and acquisitions it is imperative that the shipping public's access to this competitive market be maintained and fostered. Left unchecked the mega-rail carrier could continue to enact policies and procedures that will shut them out. It is this proceeding that will protect the smaller shippers from these types of anti-competitive practices.